

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

POST OFFICE BOX SERVICE ENHANCEMENTS

Docket No. MC2012-26

**RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO ORDER NO. 1366**
(July 9, 2012)

In response to Order No. 1366¹ of the Postal Regulatory Commission (“Commission”), the United States Postal Service (“Postal Service”) hereby submits this elective pleading pursuant to 39 C.F.R. § 3020.30 *et seq.* This pleading is designed to provide the Commission with additional information so that it may complete its review of service enhancements that the Postal Service introduced at certain Competitive P.O. Box locations.

In establishing the guidelines for the Postal Service’s elective filing, the Commission instructed the Postal Service to “provide any justification it deem[ed] appropriate,”² but to ensure that the filing provided the Commission with “such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification” [quoting 39 C.F.R. § 3020.32(i)].³

¹ PRC Docket No. C2012-1, Order on Motion to Dismiss Holding Complaint in Abeyance Pending Further Proceeding (“Order No. 1366”) (June 13, 2012).

² *Id.* at 15.

³ *Id.* at 14.

In compliance with 39 C.F.R. § 3020.30 *et seq.* and the Commission's instructions, and to assist the Commission in its review of the service enhancements, this pleading is divided into four sections. First, the Postal Service summarizes the procedural history of this proceeding. Second, in Attachment A, the Postal Service discusses the service enhancements' compliance with the requirements listed in 39 C.F.R. § 3020.31. In Attachment B, the Postal Service provides the Commission with a statement of supporting justification that demonstrates why the enhancements satisfy the criteria set forth in 39 C.F.R. § 3020.32. Finally, in Attachment C, the Postal Service provides a copy of the "customer agreement" for the service enhancements at issue. The agreement specifically describes the service enhancements and explains the customer's responsibilities.⁴

Procedural History

In Docket No. C2012-1, the Associated Mail and Parcel Centers, the National Alliance of Retail and Ship Centers, and 11 additional organizations ("Complainants") filed a complaint concerning the Postal Service's introduction of certain service enhancements at some of its Competitive P.O. Box Service locations.⁵ The first service enhancement is the option to receive electronic notification of mail delivery to the customer's P.O. Box ("Real Mail Notification"). The second service enhancement is the option to use the Post Office street

⁴ The service enhancements in question are only available to Competitive P.O. Box Service customers who affirmatively sign up for them. Merely paying for a Competitive P.O. Box does not automatically entitle the customer to utilize Real Mail Notification or Street Addressing/ Private Carrier Package Delivery. Rather, each customer must consent to the terms in the customer agreement (Attachment C) before they can utilize these enhancements.

⁵ PRC Docket No. C2012-1, Complaint Regarding Postal Service Offering Enhanced Services Product for Competitive PO Boxes ("Complaint") (March 15, 2012).

address and a “#” designation, in lieu of a “P.O. Box” designation, before the addressee’s box number (“Street Addressing”).⁶ As part of the Street Addressing enhancement, customers also have the option of receiving packages from private carriers at the customer’s P.O. Box address (“Private Carrier Package Delivery”).⁷ The Complainants argued that the Postal Service’s failure to receive Commission approval prior to introducing these enhancements violated 39 U.S.C. §§ 3633, 3642, and 3661.⁸

On April 4, 2012 the Postal Service filed a motion to dismiss the complaint.⁹ In its motion the Postal Service advanced two primary arguments. First, the Postal Service argued that the Complainants’ claims under 39 U.S.C. §§ 3633 and 3642 were resolved in previous Commission proceedings.¹⁰ In those proceedings (Docket Nos. MC2011-25 and CP2012-2), the Postal Service generally discussed its intent to introduce service enhancements at certain Competitive P.O. Box locations, and provided information on how the costs of such enhancements would be calculated.¹¹ Second, the Postal Service argued

⁶ Customers who sign-up for this enhancement are only permitted to use the “#” designation in lieu of the “P.O. Box” designation. Attachment C at 1. If a customer uses the “apt.” or “suite” designations instead of the “#” designation, their mail may be returned to sender. *Id.*

⁷ While the Commission described Private Carrier Package Delivery as a third enhancement, it is important to note that it is only available to customers who also use Street Addressing. Attachment C at 1. Consequently, the Postal Service does not consider Street Addressing and Private Carrier Package Delivery to be separate enhancements.

⁸ The Complainants made three primary claims. First, Complainants claimed that the Postal Services failed to appropriately seek Commission approval for the service enhancements, which violated 39 USC § 3642. Second, Complainants claimed that the costs associated with the service enhancements might not be recovered by current rates, which would violate 39 USC § 3633. Finally, the Complainants claimed that by offering the service enhancements, the Postal Service made a “change in the nature of postal services,” and therefore needed to file a request for an advisory opinion with the Commission pursuant to 39 USC § 3661.

⁹ PRC Docket No. C2012-1, Motion of the United States Postal Service to Dismiss Complaint (“Motion to Dismiss”) (April 4, 2012).

¹⁰ *Id.* at 1.

¹¹ *Id.* at 4-6.

that the claim under 39 U.S.C. § 3661 should be dismissed, because the requirements of section 3661 do not apply to minor service enhancements to postal products.¹²

In Order No. 1366, the Commission granted the Postal Service's motion as to the Complainants' claim under 39 U.S.C. § 3661, but denied the Postal Service's motion as to the claims under 39 U.S.C. §§ 3633 and 3642.¹³ In order to resolve the remaining claims, the Commission gave the Postal Service the option of making an elective filing under 39 C.F.R. § 3020.30 concerning the enhancements to its Competitive P.O. Box Service.¹⁴ The Commission stated that the elective filing would provide the parties "a more efficient, less costly means to address the issues in dispute."¹⁵ This docket was established as a placeholder for the Postal Service's elective filing.¹⁶

The Postal Service commends the Commission for pursuing this resource saving approach to resolving the remaining issues raised by the Complainants. However, since the service enhancements were never intended to create a new product, and since they do not purport to remove or transfer a product, many of the specific rules contained in 39 C.F.R. § 3020.30 *et seq.* are superfluous.¹⁷ Nevertheless, the Postal Service has striven to provide the Commission with sufficient information to demonstrate not only that it faithfully attempted to meet

¹² *Id.* at 9-11.

¹³ Order No. 1366 *supra* note 1, at 15.

¹⁴ *Id.* at 14.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ The rules contained in 39 C.F.R. § 3020.30 *et seq.* govern filings made by the Postal Service that propose "a modification to the market dominant product list or the competitive product list appearing in the Mail Classification Schedule." 39 C.F.R. § 3020.30. The rules further state that a "modification shall be defined as adding a product to a list, removing a product from a list, or moving a product from one list to the other list." 39 C.F.R. § 3020.30.

its reporting obligations to the Commission, but also that the service enhancements satisfy all relevant requirements.

Respectfully submitted,

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Compliance with 39 C.F.R. § 3020.31

The rules under 39 C.F.R. 3020.30 *et seq.* are designed to accommodate requests by the Postal Service to modify the Market-Dominant or Competitive product lists. The rules define a modification as “adding a product to a list, removing a product from a list, or moving a product from one list to the other.”¹ The required contents of a request are listed in 39 C.F.R. § 3020.31. The information below addresses the relevance of each requirement to the Competitive P.O. Box Service enhancements:

(a) Provide the name, and class if applicable, of each product that is the subject of this request.

As further discussed in subsection (c), the service enhancements introduced at certain Competitive P.O. Box Service locations do not constitute products. However, these enhancements are associated with the Competitive P.O. Box product described in Mail Classification Schedule (“MCS”) section 2640. This product was created when the Commission initially transferred 49 Market-Dominant P.O. Box locations to the Competitive product list in Docket No. MC2010-20.² The Commission transferred approximately 6,800 additional P.O. Box locations to the Competitive product list in Docket No. MC2011-25.³

¹ 39 C.F.R. 3020.30.

² PRC Docket No. MC2010-20, Order No. 473 Approving Request to Transfer Selected Post Office Box Service Locations to the Competitive Product List (“Order No. 473”) (June 17, 2010)

³ PRC Docket No. MC2011-25, Order No. 780 Approving Request to Transfer Additional Post Office Box Service Locations to the Competitive Product List (“Order No. 780”) (July 29, 2011).

(b) Provide a copy of the Governor's decision supporting the request, if any.

As explained in further detail in subsections (c) and (f), the service enhancements at issue do not modify the rates or classification of a competitive product. Consequently, a Governors decision is not required.

(c) Indicate whether the request proposes to add a product to the market dominant list or the competitive list, remove a product from the market dominant list or the competitive list, or transfer a product from the market-dominant list to the competitive list or from the competitive list to the market-dominant list.

On its face, the introduction of service enhancements at certain Competitive P.O. Box Service locations cannot be construed to remove a product from or transfer a product between the Competitive and/or Market-Dominant Product lists. By process of elimination, the Postal Service is left to indicate whether the service enhancements add a new product to the Competitive or Market-Dominant product lists. Indeed, the Commission acknowledged as much in Order No. 1366, when it stressed that it had “not made a determination whether one or more of the service enhancements is a new product.”⁴

The service enhancements at issue in this proceeding do not create a new product. As a result, a filing under 39 U.S.C. § 3642 is not required. This

⁴ PRC Docket No. C2012-1, Order No. 1366 on Motion to Dismiss Holding Complaint in Abeyance Pending Further Proceeding, at 14 (“Order No. 1366”) (June 13, 2012). Based on this statement, the Postal Service believes that one of the Commission’s main objectives is to determine whether the service enhancements constitute the addition of a new product to the Competitive product list.

conclusion is based on the statutory definition of a “product” and prior Commission practice.

A product is defined in 39 U.S.C. § 102(6) as “a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied.” Examples of such products include First-Class Mail® Single-Piece Letters/Postcards, Priority Mail®, or even Competitive P.O. Box Service itself. These products are defined in the Mail Classification Schedule (“MCS”), and have both distinct costs and rates. However, the Competitive P.O. Box Service enhancements at issue in this proceeding do not meet this definition.

As the Postal Service indicated in its Motion to Dismiss, these enhancements are not individually priced.⁵ Instead, the minimal costs associated with introducing these enhancements were built into the price increase that the Commission approved in Docket No. CP2012-2.⁶ This integration makes sense, because the enhancements do not change the definition of P.O. Box Service, but simply allow customers to use their existing mail receptacles more conveniently and efficiently.

Indeed, when describing why Private Mailbox (“PMB”) service is a competitive alternative to P.O. Box Service, the Commission stated that:

Notwithstanding the ancillary services [e-mail notifications, street addresses, and delivery by private carriers] offered by PMB providers, the two products [PMB Service vs. Post Office Box Service] are close substitutes for one another. The fundamental purpose of each is to serve as a paid receptacle of correspondence and packages sent to the addresses. Incidental differences in the services simply distinguish the products offered to the public. At bottom, each product provides a means

⁵ PRC Docket No. C2012-1, United States Postal Service Motion to Dismiss Complaint, at 7, n.25 (“Motion to Dismiss”) (April 4, 2012).

⁶ See PRC Docket No. CP2012-2, Order No. 1062 Approving Changes in Rates of General Applicability for Competitive Products, at 5 (December 21, 2011).

to accomplish delivery of correspondence and packages sent to addressees.⁷

This statement echoes the Postal Service's belief that the service enhancements merely allow customers to use their mail receptacles more efficiently, and do not change the definition of P.O. Box Service. Consequently, the service enhancements at issue in this proceeding have not created a new product.

The Postal Service's position is bolstered by the fact that it has never made a section 3642 filing for an enhancement that was not separately priced.⁸ For instance, the Postal Service enhanced P.O. Box Service by launching Post Office Boxes Online ("POBOL") without a filing before the Commission. This enhancement allows customers to search for P.O. Box availability, and apply for box service, online. It also permits customers to establish automatic payment of P.O. Box Service fees. Similarly, the Postal Service recently enhanced its Carrier Pickup Service by launching the "schedule a pickup" feature on USPS.com. This enhancement allows customers to request carrier pickup online. Like the Competitive P.O. Box Service enhancements, these features simply allow customers to use the underlying products more conveniently and

⁷ Order No. 473 *supra* note 2, at 10.

⁸ In fact, during the FY2011 ACD Process, the Postal Service notified the Commission of 23 new products, services, and features that it introduced during the year. See PRC Docket No. ACR2011, Responses of the United States Postal Service to Questions 1-3 of Chairman's Information Request No. 5, response to question 1 (March 9, 2012). Of those 23 items, 8 were enhancements introduced without a Commission filing, including two of the enhancements that are at issue in this proceeding. These enhancements include ePostage, Hold for Pickup, P.O. Box Real Mail Notification, P.O. Box Street Addressing, USPS.com: Spanish and Chinese Translations, USPS.com: New/Updates Applications and Services, USPS.com: New Mobile Device Release, and Direct Mail Hub. The Commission listed these items in its Annual Compliance Determination and noted that the "Postal Service exceeded its target [15] by unveiling 23 new products, services, and features in the areas of shipping, retail, marketing mail, and transactions and correspondence." See PRC Docket No. ACR2011, Annual Compliance Determination for Fiscal Year 2011, at 53 (March 28, 2012). The Commission did not challenge the Postal Service's introduction of these enhancements at that time.

efficiently. Neither of these enhancements are individually priced, and the Postal Service has never considered them to be products.

The Postal Service's position is also in keeping with the product flexibility that is accorded to the Postal Service by the Postal Accountability and Enhancement Act ("PAEA") of 2006.⁹ The Postal Service's ability to quickly respond to customer demands would be significantly hampered if it were required to make a section 3642 filing every time it introduced an unpriced enhancement to a product. Additionally, given the large number of unpriced enhancements that are made every year, the required 3642 filings could quickly overwhelm the resources of both the Postal Service and the Commission.

For these reasons, the Postal Service does not believe that the Competitive P.O. Box Service enhancements create a new product and thus, the Postal Service is not required to make a filing under section 3642.

(d) Indicate whether each product that is the subject of the request is:

- 1. A special classification within the meaning of 39 U.S.C. 3622(c)(10) for market-dominant products*

This subsection does not apply, because the Competitive P.O. Box Service enhancements do not involve a market-dominant product.

- 2. A product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3) for competitive products; or*

⁹ See PRC Docket No. RM2007-1, Order No. 43 Establishing Ratemaking Regulations for Market Dominant and Competitive Products, at 1 ("Order No. 43") (October 29, 2007) (noting that flexibility is one of the PAEA's bedrock principles); Order No. 43, at 107 (noting that the proposed rules provide the Postal Service with "great flexibility to manage Postal Service products").

This subsection does not apply, because the Competitive P.O. Box Service enhancements are generally available.

3. A non-postal product

This subsection does not apply, because Competitive P.O. Box Service is a postal product.

(e) Provide all supporting justification upon which the Postal Service proposes to rely; and

This information is provided in subsections (b) through (g) of the Statement of Justification (Attachment B).

(f) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format.

For this filing, the Postal Service does not believe that any additional MCS changes are needed for the Competitive P.O. Box Service enhancements at issue in this Proceeding.

The first enhancement, Real Mail Notification, is the option to receive e-mail notification of mail delivery. This enhancement is simply a technological development of an earlier, informal option at some Post Office Box service locations: calling the Post Office to ask if mail had been delivered to the customer's box. Formalizing and improving a customer convenience that was already available does not alter the definition of Post Office Box service. Rather,

this enhancement merely helps customers use their existing mail receptacle more efficiently.

The second service enhancement, Street Addressing, is the option to use the Post Office street address and a “#” designation in lieu of a “P.O. Box” designation. This enhancement is limited to the addressing format, and does not eliminate the basic requirement to include the P.O. Box number in the address. Such addressing conventions (how a customer communicates to the Postal Service where an article should be delivered) are not within the scope of the MCS. Rather, such addressing conventions are included in the Domestic Mail Manual (DMM).¹⁰

As part of Street Addressing, customers may also take advantage of Private Carrier Package Delivery, which is the option to receive packages brought to a Post Office by private carriers. The Postal Service agrees that this enhancement needed a Commission filing, because the Postal Service must be paid in some manner for delivering these packages to P.O. Box customers. The Postal Service made the required filing as part of the annual Competitive price change, Docket No. CP2012-2. In that case, the Postal Service added the following note to the Post Office Box service price table: “A portion of the fee may serve as postage on packages delivered to competitive Post Office box service customers after being brought to the Post Office by a private carrier.”¹¹

¹⁰ See DMM 602. While some MCS product descriptions state that certain addressing (and other) requirements must be met (e.g., MCS 1205.1), the actual addressing requirements are specified in the DMM, rather than the MCS.

¹¹ PRC Docket No. CP2012-2, Notice of The United States Postal Service of Changes in Rates of General Applicability for Competitive Products Established in Governors’ Decision No. 11-8, Attachment to Governors’ Decision No. 11-8, at 142 (November 22, 2011).

What's more, the Postal Service provided a description of the Private Carrier

Package Delivery enhancement in response to Question 4 of Order No. 997:¹²

Some competitive Postal Service locations will receive packages from private carriers (if addressed to the street address of the Post Office location, along with the customer's box number), and then deliver the packages to the customer's Post Office box. Payment for this delivery will come out of the Post Office box fees at that office, reflecting a "recipient pays" model for postage payment.

Postal Service delivery of private carrier packages to Post Office boxes will provide a service frequently requested by Postal Service customers, and will also benefit private carriers, as well as merchants whose customers use a Post Office box. Some eCommerce merchants will not ship to a PO Box address. This enhancement will allow PO Box customers to receive shipments from all carriers. Our competitors emphasize that they accept shipments from all private carriers when they promote their mailbox services. This is clearly an option sought by customers of private mailbox providers.¹³

Therefore, the MCS change for private carrier package delivery has

already been filed by the Postal Service, and accepted by the

Commission.¹⁴ As a result, the Postal Service has already provided the

Commission with a filing that describes the nature and implementing rules

for private carrier package delivery.¹⁵

Additionally, the Postal Service recognizes that the MCS includes ancillary services for some products, including Competitive P.O. Box Service. However, in the context of the MCS, "ancillary services" are services for which a separate

¹² PRC Docket No. CP2012-2, Order No. 997 Concerning Changes in Rates of General Applicability for Competitive Products, at 7 (Nov. 22, 2011).

¹³ PRC Docket No. CP2012-2, Supplemental Information Provided by the United States Postal Service in Response to Commission Order No. 997, at 14 (Dec. 5, 2011).

¹⁴ The Postal Service sincerely regrets its inadvertent failure to provide this information in its April 4, 2012, Motion to Dismiss. The Postal Service believes that this information would have justified dismissing the complaint with respect to this Post Office Box service enhancement.

¹⁵ Order No. 1366 *supra* note 4, at 14 ("the Postal Service has not submitted an appropriate filing that describes the nature and implementing rules for these enhanced services"). The Postal Service has provided (as Attachment C) the implementing rules for Real Mail Notification and Street Addressing. Attachment C consists of the customer agreement that P.O. Box customers sign when they sign up for the service enhancements at issue.

price is charged.¹⁶ For example, the Post Office Box Service product includes ancillary services for key duplication and lock replacement.¹⁷ The Postal Service would make a filing with the Commission for any ancillary services it decided to add to Post Office Box Service. However, the service enhancements at issue in this Complaint are not ancillary services within the meaning of the MCS, because no separate price is charged.

The Postal Service also recognizes that some product features, for which no separate price is charged, are identified in MCS product descriptions. However, these features are identified only if they define the product. For example, the description for the Certified Mail product specifies that a mailing receipt is provided, along with electronic verification of delivery, and that a record of delivery is maintained by the Postal Service.¹⁸ Notably, the MCS does not specify how the electronic verification is actually provided. Consequently, the Postal Service would not need to change the MCS should it enhance Certified Mail's electronic verification by making it available through a mobile application, for example. If however, the Postal Service decided to stop providing electronic verification of delivery altogether, the product description would be changed, necessitating a filing, most likely under 39 C.F.R. § 3020.90.

Additionally, as was discussed in more detail in subsection (c), the Commission has determined that Competitive P.O. Box Service is not defined by the service enhancements at issue in this docket. In Docket No. MC2010-20, the

¹⁶ For the products other than special services, ancillary services are listed under the Optional Features heading. Again, optional features are limited to those features for which there is a separate price.

¹⁷ Mail Classification Schedule, Section 2640.3.

¹⁸ Mail Classification Schedule, Section 1505.5.1(a)

Commission noted that “at bottom, each product provides a means to accomplish delivery of correspondence and packages sent to addressees.”¹⁹

If these Competitive P.O. Box Service enhancements must be included in the MCS, then what other services should also be included: the hours for which access to the boxes is provided or the time at which mail is supposed to be delivered to the boxes? If, as the Commission stated in Docket No. RM2007-1, “the rules require only minimal descriptive information to be included in the Mail Classification Schedule,”²⁰ then this level of detail cannot be required.

¹⁹ Order No. 473 *supra* note 2, at 10.

²⁰ Order No. 43 *supra* note 9, at 102.

STATEMENT OF SUPPORTING JUSTIFICATION

I, Nan K. McKenzie, Manager of Retail Services, sponsor the Postal Service's Statement of Supporting Justification. This Statement supports the Postal Service's elective filing in this docket, by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32, as indicated below. I attest to the accuracy of the information contained herein.

(a) *Demonstrate why the change is in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code.*

As demonstrated below in subsections (b) through (h), the enhancements comply with the relevant statutory provisions.

(b) *Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the objectives of 39 U.S.C. 3622(b), taking into account the factors of 39 U.S.C. 3622(c).*

This section does not apply. The enhancements apply only to the Competitive Post Office Box Service product.

(c) *Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.*

Section 3633 sets forth three standards for competitive products. Subsection (a)(1) prohibits the subsidization of competitive products by market

dominant products. Subsection (a)(2) requires that each competitive product cover its attributable costs. Subsection (a)(3) requires that all competitive products collectively cover an appropriate share of Postal Service institutional costs, which the Commission has determined to be 5.5 percent.

Even with the introduction of the service enhancements at issue, the Postal Service continues to believe that Competitive P.O. Box Service will have a cost coverage exceeding 140 percent,¹ ensuring that the requirements of 39 U.S.C. § 3633 will be satisfied. Between January and June of 2012, the Postal Service spent under \$300,000 to implement the service enhancements at issue. This minimal expense should be compared with the roughly \$369 million in revenue that Competitive P.O. Box locations generated over the same period. This represents a ten percent revenue increase over the same period last year.²

Since P.O. Box Service reported a cost coverage of 135.3% in FY2011³ (prior to the transfer of roughly 6,800 additional locations to the Competitive product list), the ten percent increase in revenues and minimal implementation expenses should only improve Competitive P.O. Box Service's cost coverage.

¹ See PRC Docket No. MC2011-25, Request of the United States Postal Service to Transfer Post Office Box Service in Selected Locations to the Competitive Product List, Attachment B, at 3 (May 13, 2011).

² This increase for the first six months suggests that the annual revenue increase will exceed the \$39 million increase projected in Docket No. CP2012-2 for all of FY 2012. PRC Docket No. CP2012-2, Notice of United States Postal Service of Filing Revised MCS Language and Non-Public Annex [Errata], Competitive Product Contribution & Coverage Analysis at 1 (December 2, 2011). It must also be noted that this increase in revenue is not attributable to an increase in the number of boxes in use. In fact, between January and June of this year (the period since the 6,800 additional locations were transferred) the number of boxes in use at Competitive P.O. Box Service locations has declined by over 66,000. Rather, the increase in revenue is almost entirely attributable to the nearly 25 percent price increase at competitive locations that became effective on January 22, 2012.

³ See PRC Docket No. ACR2011, Annual Compliance Determination Report Fiscal Year 2011, at 137, Table VII-22 (March 28, 2012).

(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantially above costs; (2) raise prices significantly; (3) decrease quality; or (4) decrease output.

In Order No. 473, the Commission found that the availability of a Private Mailbox (“PMB”) provider within one-half mile of a P.O. Box service location “constrains the Postal Service’s ability to raise prices significantly, decrease quality, or decrease output without risk of losing a significant level of business to firms offering similar products.”⁴ The Commission built upon this finding in Order No. 780, when it found that P.O. Box locations within five miles of a PMB provider are not market-dominant.⁵ The addition of the service enhancements at issue does not change the status of Competitive Post Office Box service.

In fact, between January (when the enhancements were implemented) and June, 2012, Competitive P.O. Box Service experienced a loss of over 66,000 boxes in use. This decline came in the wake of a nearly 25 percent price

⁴ PRC Docket No. MC2010-20, Order No. 473 Approving Request to Transfer Post Office Box Service Locations to the Competitive Product List, at 11 (“Order No. 473”) (June 17, 2010).

⁵ PRC Docket No. MC2011-25, Order No. 780 Approving Request to Transfer Additional Post Office Box Service Locations to the Competitive Product List, at 8 (“Order No. 780”) (July 29, 2012) (“The Commission concludes that the Postal Service does not exercise sufficient market power over the affected locations for them to be considered market dominant”).

increase that was approved by the Commission in Docket No. CP2012-2.⁶ The number of boxes in use should continue declining as additional P.O. Box agreements come up for renewal under the new competitive prices. This decline further confirms that the Postal Service does not occupy a dominant position in this market.

(e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601.

Competitive P.O. Box service is not covered by these provisions, as the provisions concern only the carriage of letters.

(f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product.

Numerous PMB providers – whether franchisees operating under the names of The UPS Store, Associated Mail & Parcel Center, PostNet, AIM Mail Center, or unaffiliated businesses – offer a similar service: a paid receptacle for the receipt of correspondence and packages. Further, PMB providers often include, at no additional charge, features similar to the enhancements at issue in this proceeding. Such features include e-mail notifications that mail or a packages are in a customer's mailbox, the ability for the customer to receive mail addressed to the PMB provider's street address rather than just a specific box

⁶ See PRC Docket No. CP2012-2, Order No. 1062 Approving Changes in Rates of General Applicability for Competitive Products, at 1 (December 21, 2011).

number, and the ability to receive packages from carriers other than the Postal Service. As the Commission recognized in Order No. 473, Post Office Box service and the services provided by PMBs “are close substitutes for one another.”⁷

(g) Provide any information available on the views of those who use the product on the appropriateness of the proposed modification.

The Postal Service has received positive feedback about the introduction of service enhancements at Competitive P.O. Box locations. This indicates that Real Mail Notification and Street Addressing/Private Carrier Package Delivery are enhancements that make the use of P.O. Box Service more efficient and convenient. Indeed, these enhancements were frequently requested by customers prior to their introduction. However, as the Postal Service predicted, some customers have raised concerns about the significant price increases that were approved in Docket No. CP2012-2. Some of this dissatisfaction is reflected in the loss of over 66,000 box customers between January and June of this year.

Additionally, it is important to note that despite the positive feedback the Postal Service has received, under 130,000 customers (two percent of the approximately 5,850,000 Competitive P.O. Box Service customers) have signed-up for these enhancements as of June 31, 2012.

⁷ Order No. 473 *supra* note 4, at 10.

(h) *Provide a description of the likely impact of the proposed modification on small business concerns.*

Most PMB locations are operated as small businesses. As the Complaint in Docket No. C2012-1 indicates, many of these small businesses oppose the service enhancements because they make P.O. Box service more comparable to their offerings. This indicates that such small businesses believe that these enhancements may cause them to lose some market share to the Postal Service. Complainants support these contentions by citing the Postal Service's tax advantage as a government entity and its position as a regulator of PMB providers.⁸ These concerns are not borne out by the facts.

First, with respect to competition generally, the Postal Service acknowledges that the service enhancements at issue make Competitive P.O. Box Service more comparable to the offerings PMB providers. Contrary to what the Complainants' might believe, the Postal Service is not prohibited from competing with other businesses. Indeed, Congress specifically encouraged competition in the PAEA by creating a "competitive" class of products.⁹ Moreover, in Docket No. MC2010-20, many of the Complainants seemingly

⁸ For the tax-advantage claim see PRC Docket No. C2012-1, Complaint Regarding Postal Service Offering Enhanced Services Product for Competitive P.O. Boxes, at 5 ("Complaint") (March 15, 2012) ("businesses that AMPC represents will not be able to compete with the enhanced PO Boxes due to the tax and marketing advantages of the USPS, and their businesses will be severely jeopardized by these actions"); For Postal Service as regulator claim, see Complaint at 13-14.

⁹ Sen. Rep. 108-318, at 28 (2006) ("This bill establishes a flexible system of pricing the Postal Service's competitive products which reduces regulatory burdens and permits more customer- and market-responsive pricing. It does this while establishing appropriate safeguards to ensure that a level playing field is maintained and that the Postal Service does not unfairly compete").

favored competition by supporting the Postal Service's plan to raise prices.¹⁰

Strangely, the Complainants now oppose the Postal Service's effort to compete by enhancing Competitive P.O. Box Service. As the Commission has recognized, PMBs' desire for higher P.O. Box prices demonstrates their "willingness to compete on price, if not other services."¹¹

Second, despite the Complainant's assertions that PMBs will not be able to compete with the Postal Service's superior marketing capabilities,¹² the Postal Service spent less than \$20,000 to advertise the enhancements between January and June of 2012. At present, the Postal Service does not have plans to increase its rate of advertising spending.

Third, with respect to the level of competition that PMB providers are currently facing, it is important to note that the service enhancements at issue are not available at all Competitive P.O. Box Locations. Due to a variety of logistical and technological issues, around 400 locations do not offer Street Addressing or Private Carrier Package Delivery, and around 150 locations do not offer Real Mail Notification. Further, as the Postal Service discussed above, customers do not receive these enhancements automatically, but must first agree to specific rules and conditions by signing a customer agreement (Attachment C). As of June 31, 2012, under 130,000 P.O. Box Service customers have signed up for the service enhancements at issue; about 2 percent of all Competitive P.O. Box

¹⁰ See, e.g. PRC Docket No. MC2010-20, Associated Mail & Parcel Centers Comments (Mar. 23, 2010); PRC Docket No. MC2010-20, Mail & More of Tega Cay Comments (Mar. 31, 2010); PRC Docket No. MC2010-20, National Alliance of Retail Ship Centers Comments (Mar. 31, 2010).

¹¹ Order No. 473, *supra* note 4, at 11.

¹² Complaint *supra* note 8, at 5 ("businesses that AMPC represents will not be able to compete with the enhanced PO Boxes due to the tax and marketing advantages of the USPS and their businesses will be severely jeopardized by these actions").

customers. Based on conversations with local postmasters, the Postal Service believes that many of those who signed up for the service enhancements were existing customers, thus minimizing the migration from PBM providers to P.O. Box Service.¹³

Fourth, with respect to its advantages as a government entity, the Postal Accountability and Enhancement Act (“PAEA”) of 2006 eliminated many of the Postal Service’s government advantages, including its tax advantage for competitive products.¹⁴ These changes were made to ensure that the Postal Service did not have an unfair advantage when competing against other private enterprises.

Fifth, with respect to the Postal Service’s role as regulator of PMB providers, the service enhancements at issue do nothing more than place Competitive P.O. Box Service on a level playing field with respect to the addressing standards already applicable to PMB providers. For example, just like the customers of PMB providers, P.O. Box customers who use the Street Addressing enhancement are required to include the “#” designation in their address.¹⁵ Thus, the Postal Service has not used its rulemaking authority to give itself a competitive advantage over PMB providers. Moreover, PMB providers

¹³ Some of the existing customers may have switched from a Market-Dominant to a Competitive location, because of the service enhancements at the Competitive locations.

¹⁴ Sen. Rep. 108-318, at 28 (2006) (“The legal advantages the Postal Service enjoys over its private sector competitors are also erased in this legislation. The Postal Service will be required to pay an annual “assumed Federal income tax” on income earned by its competitive products. The amount of the tax each year would equal the income tax a corporation would pay if its only activities were those activities conducted by the Postal Service that are related to competitive products”).

¹⁵ Attachment C at 1. As previously discussed, Competitive P.O. Box Customers are also prohibited from using the “apt.” or “suite” designations. *Id.* Mail containing such designations may be returned to sender. *Id.*

still have a competitive edge by providing additional services that the Postal Service does not offer, including both packing and printing services.

In essence, the Complainants would have the Commission believe that the Postal Service's offer of a service similar to their own is somehow illegal and anticompetitive. Rather, such activities are pro-competitive and provide customers with new options that they did not previously have. Given the combination of a 25 percent price increase, a reduction of more than 66,000 boxes in use, the fact that only two percent of the P.O. Box customers have signed up for the enhancements, and the elimination of the Postal Service's tax advantage, PMB providers should not be unduly impacted. Simply put, the Complainants should not be allowed to unfairly protect their market position by using the specter of competition as both a shield and a sword.

(h) Include such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.

The Postal Service has already provided the Commission with the relevant information in subsections (b) through (g) above. The Postal Service believes that the service enhancements at issue fully comply with all applicable regulations, and that it has faithfully attempted to adhere to the Commission's rules at all stages of implementation. The Postal Service thanks the Commission for the opportunity to provide additional information on these service enhancements and looks forward to a speedy resolution of this proceeding.

The Postal Service is offering the following new services for PO Box customers at this Post Office® location:

- 1 -



B. Signature on File

The Postal Service™ is offering Signature on File for PO Box customers at this Post Office™ location. With this service, you can place your signature on file with the Postal Service, which eliminates the need to wait in line to sign for a package. When you sign up for Signature on File, you authorize the Postal Service to use the signature on file whenever the following signature-required mail arrives at your PO Box:

- Express Mail®
- Insured Mail over \$200 (including Electronic Return Receipt)
- Signature Confirmation™
- Return Receipt for Merchandise.

The Postal Service then will be able to place a piece of mail in your PO Box (or, for a limited time period, a parcel locker, if available). Be sure to check your PO Box in a timely manner if you expect to receive signature-required mail that is too large for your PO Box. This will reduce the need for you to wait in line for a Retail Associate to retrieve it for you.

Terms and Conditions

You must complete two PS Forms 3849 ("Sorry We Missed You") with this agreement. One will be scanned when an eligible item for Signature on File is received. Another will be reserved in a secure area in case the first one did not scan properly. Although everyone listed on the PS Form 1093, *PO Box Application*, can participate, only the **primary box holder** (the one who signed the PO Box Application (PS Form 1093)) can sign the two PS Forms 3849. All persons who receive mail at this box must abide by the terms and conditions as well.

NOTE: Signature on File service does not apply to the following accountable items: Registered Mail (including Return Receipt), Certified Mail® (including Return Receipt), "green" hardcopy Return Receipt, and Restricted Delivery. Also, you will still need to go to the Retail counter to pick up an item that does not fit in your PO Box when no parcel locker is available. Mail placed in a parcel locker that is not picked up within a few days may need to be picked up at the Retail counter.

____ (Please initial.) I would like to participate in Signature on File.

C. Real Mail Notification™ Service

With this service, you will receive either an email or text message each Monday through Saturday to inform you that you will receive mail in your PO Box that day. Notifications will typically come before the PO Box mail is delivered to the PO Box. Currently, this service is only available for letters and flat envelopes.

Please note that, at this time, we can accommodate only one email address or cell phone number for each Post Office Box address. If you choose to receive text messages, be sure to check with your phone's service provider about any fees for incoming text messages.

To participate in Real Mail Notification, you need to provide either an email address or a cell phone number.

NOTE: Real Mail Notification service is fully automated and uses information from our mail processing equipment. Our internal testing indicates that there is a high degree of accuracy in this information but occasionally the notification may not be 100% accurate.

____ (Please initial.) I would like to participate in Real Mail Notification™ service. Below I have checked the message format I desire, and completed the needed information.



Email My email address is: _____ @ _____

or



Cell phone # and provider for text messages:

Cell phone number: _____

Cell phone service provider: _____



Terms and Conditions

This document identifies the Terms and Conditions under which the Postal Service makes optional new PO Box services available to you. By signing this agreement, you are stating that you have read and understand this document and you agree to be bound by its terms and conditions. These services (as described above) are offered on a voluntary basis. Customers who wish to participate in these services must sign this document indicating they agree to the terms and conditions. If you do not sign this agreement, you will continue to receive regular PO Box service without the new services.

By signing this agreement, you are confirming that you are the primary box holder (i.e. the one who signed the PS Form 1093, *PO Box Application*). All additional persons who receive mail at this box must abide by the terms and conditions as well.

Signature

By signing below, I agree to participate in the PO Box services that I have marked above, and to the Terms and Conditions outlined in this document, including that I am the primary box holder:

PO Box Customer Printed Name

Date

PO Box Customer Signature

PO Box Number

Postal Official Printed Name

Postal Official Signature

Post Office Name, City, State and ZIP Code

If customer chooses to discontinue, please sign:

PO Box Customer Signature

Postal Official Signature

Privacy Act Statement: Your information will be used to provide additional Post Office Box services. Collection is authorized by 39 U.S.C. 401, 403, and 404. Providing the information is voluntary, but if not provided, we will be unable to provide these services to you. We do not disclose your information to third parties without your consent, except to facilitate the transaction, to act on your behalf or request, or as legally required. This includes the following limited circumstances: to a congressional office on your behalf; to financial entities regarding financial transaction issues; to a U.S. Postal Service auditor; to entities, including law enforcement, as required by law or in legal proceedings; to contractors and other entities aiding us to fulfill the service (service providers); to process servers; to domestic government agencies if needed as part of their duties; and to a foreign government agency for violations and alleged violations of law. Information concerning an individual box holder who has filed a protective court order with the postmaster will not be disclosed except pursuant to court order. For more information on our privacy policies see our privacy policy at usps.com/privacypolicy.